

Date 2 =

Date 3 =

Date 4 =

Company Official =

Tax Professional =

Dear :

We respond to your October 3, 2012, letter requesting an extension of time under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to file an election. The extension is being requested for Parent, Sub 1, Sub 2, Sub 3, and Sub 4 (hereinafter, excluding Parent, "Subsidiaries") to make an election to file a consolidated Federal income tax return, with Parent as the common parent, under § 1.1502-75(a)(1) of the Income Tax Regulations (hereinafter referred to as "the Election"), effective for the group's taxable year ending on Date 1. Additional information was submitted in letters dated February 1, 2013, February 19, 2013, and February 28, 2013. The material information is summarized below.

Prior to Date 2, Sub 1 was the common parent of an affiliated group filing a consolidated return. The members of Sub 1's group were Sub 2, Sub 3 and Sub 4. On Date 3, Private Equity, a partnership for Federal income tax purposes, organized Parent, a domestic corporation, for the purpose of acquiring all of the stock of Sub 1. Parent adopted the same tax year end as Sub 1.

On Date 4, Parent acquired all of the stock of Sub 1 for cash. Parent merged a newly created subsidiary with and into Sub 1 to accomplish this acquisition.

An election under § 1.1502-75(a)(1) to file a consolidated return for the taxable year ending Date 1 was required to be filed by the due date of Parent's return (including extensions), but for various reasons the Election was not filed timely.

Parent has represented that it is not seeking to alter a return position for which an accuracy-related penalty has been or could have been imposed under § 6662 at the time it requested relief and the new position requires or permits a regulatory election for which relief is requested.

The period of limitations on assessment under § 6501(a) has not expired for Parent's or any of Subsidiaries' taxable years for which they want to make the Election or for any taxable year that would be affected by the Election had it been timely filed.

Section 1.1502-75(a)(1) provides that a group which did not file a consolidated return for the immediately preceding taxable year may file a consolidated return in lieu of separate returns for the taxable year, provided that each corporation which has been a member of the group during any part of the taxable year for which the consolidated return is to be filed consents to the regulations under § 1502. If a group wishes to exercise its privilege of filing a consolidated return, such consolidated return must be filed not later than the last day prescribed by law (including extensions of time) for filing the common parent's return.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

In this case, the time for filing the Election is fixed by the regulations (i.e., § 1.1502-75(a)(1)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent and Subsidiaries to file the Election, provided that they acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Company Official and Tax Professional explain the circumstances that resulted in the failure to timely file a valid Election. The information establishes that Parent reasonably relied on qualified tax professionals who failed to make, or advise Parent to make, the Election, and that granting relief will not prejudice the interests of the government. See § 301.9100-3(b)(1)(v).

Based on the facts and information submitted, including the representations made, we conclude that Parent and Subsidiaries have shown they acted reasonably

and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, an extension of time is granted under § 301.9100-3, until 45 days from the date on this letter, for Parent to file the Election by filing a consolidated return with Parent as the common parent and attaching a Form 1122 for each subsidiary member for the year ending on Date 1. Parent must attach a copy of this letter to the return. Alternatively, if such return is filed electronically, the requirement of attaching a copy of this letter to the return may be satisfied by attaching a statement to the return that provides the date and control number (PLR-143932-12) of the letter ruling.

The above extension of time is conditioned on the taxpayers' (Parent's and Subsidiaries') tax liability (if any) being not lower, in the aggregate, for all years to which the Election applies, than it would have been if the Election had been timely made (taking into account the time value of money). No opinion is expressed as to the taxpayers' tax liability for the years involved. A determination thereof will be made by the Director's office upon audit of the Federal income tax returns involved.

We express no opinion with respect to whether, in fact, Parent and Subsidiaries qualify substantively to file a consolidated return. In addition, we express no opinion as to the tax effects or consequences of filing the return or the Election late under the provisions of any other section of the Code or regulations, or as to the tax treatment of any conditions existing at the time of, or effects resulting from filing the return or the Election late that are not specifically set forth in the above ruling. For purposes of granting relief under § 301.9100-3 we relied on certain statements and representations made by Parent, Company Official and Tax Professional. However, the Director should verify all essential facts. Moreover, notwithstanding that the extension is granted under § 301.9100-3 to file the Election, penalties and interest that would otherwise be applicable continue to apply.. No opinion is expressed as to the type or amount of any penalties and interest.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file in this office, copies of this letter have been sent to your authorized representatives.

Sincerely,

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)